

Date of decision: 06/02/96

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.SHAH

1. Whether Reporters of Local Papers may be allowed to see the judgements? No
2. To be referred to the Reporter or not? No
3. Whether Their Lordships wish to see the fair copy of the judgement? No
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No
5. Whether it is to be circulated to the Civil Judge? No

DINESH AMRITBHAI AJMERI & 1
vs
HASMUKHBHAI LALBHAI PATEL

Appearance:

MR AS PANDYA for Petitioner
MS SEJAL K MANDAVIA for Respondent No. 1

Coram : MR.JUSTICE S.D.SHAH
Date : 6th February, 1996

ORAL JUDGEMENT

1. RULE. Ms. Sejal K. Mandavia appears and waives service of rule on behalf of opponent plaintiff. With the consent of the learned advocates appearing for the parties, the matter is finally heard today.

2. In the Summary Suit No. 1679 of 1993 filed by opponent plaintiff to recover the amount of Rs. 3,03,000/- with interest at the rate of 18 per cent, summons for judgment is taken out

and after considering the summons for judgment, documents produced in support thereof and application for leave to defend, the learned Chamber Judge has imposed the condition of deposit of Rs. 1,50,000/- by the impugned order. It is submitted before this Court by Mr. A.S. Pandya, learned Counsel appearing for the petitioner that condition imposed by the Chamber Judge is too harsh and excessive and is such which could not be complied with by the petitioner defendant. Imposition of such condition, in substance, submits Mr. Pandya, would amount to denial of opportunity to defend.

3. Having considered the aforesaid submission and in view of the fact that the petitioner defendant has already paid Rs. 2 lacs out of the total amount of Rs. 5 lacs, in my opinion, ends of justice would be met if the condition imposed by the learned Chamber Judge is reduced from Rs. 1,50,000/- to Rs. 1 lac. The petitioner defendant shall deposit amount of Rs. One lac in the trial court by depositing Rs. 50,000/- within four weeks from today and balance amount of Rs. 50,000/- within four weeks thereafter. The Civil Revision Application is allowed to the aforesaid extent only. Rule is made absolute to the aforesaid extent only. Office is directed to send down the writ of this order to the City Civil Court forthwith.
